80-1362

Office-Supreme Court, U.S.
FILED
FEB 3 1981
ALEXANDER L. STEVAS,
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

No.

EDWARD RONWIN, Petitioner

v.

RICHARD A. SEGAL, et al,
Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

EDWARD RONWIN
Box 3585
Urbandale, Iowa 50322
(515) 278-8553

Petitioner pro se

QUESTION PRESENTED

Did Respondents deny Petitioner's rights to due process and equal protection of the law in violation of the Fifth and Fourteenth Amendments, United States Constitution; and, thereby, did the United States District Court have jurisdiction of the action below contrary to the opinion of the United States Court of Appeals?

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

No.

EDWARD RONWIN, Petitioner

v.

RICHARD A. SEGAL, et al,
Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

The Petitioner, Edward Ronwin, respectfully prays that a Writ of Certiorari issue to review the final Judgment of the United States Court of Appeals for the Ninth Circuit entered in this matter on November 14, 1980.

OPINION BELOW

The Judgment of November 14, 1980 is in the form of a Memorandum whose text is reproduced in the Appendix (A-1).

JURISDICTION

This Court's jurisdiction is invoked under Title 28, U.S.C. § 1254(1).

QUESTION PRESENTED

Did Respondents deny Petitioner's rights to due process and equal protection of the law in violation of the Fifth and Fourteenth Amendments, United States Constitution; and, thereby, did the United States District Court have jurisdiction of the action below contrary to the opinion of the United States Court of Appeals?

STATUTES INVOLVED

The Fifth and Fourteenth Amendments, United States Constitution (A-).

STATEMENT OF THE CASE

On or about August 30, 1976, Petitioner

timely filed an application for admission to the State Bar of Arizona. Acting as the Committee on Character and Fitness of the Supreme Court of Arizona, Respondents alleged that they could not make findings that Petitioner meets the character and fitness requirements for admission to said Bar. No prior notice of the reasons for Respondents' conclusion was given to Petitioner; and, despite written demand, Respondents refused to give Petitioner an opportunity to be heard and to confront and cross-examine adverse witnesses and evidence, if any; and, to present witnesses and evidence in Petitioner's behalf. In consequence, Petitioner filed a complaint, based on 42 U.S.C. §§ 1983, 1985 and 1986, pursuant to the jurisdictional grant in 28 U.S.C.§1343, in the United States District Court for the District of Arizona. The District Court dismissed the complaint

on the grounds, inter alia, that said Court lacked jurisdiction, although, the Court's judgment does not so state (A-). The affirmance of the Court of Appeals on the basis of its decision in Chaney v. State Bar of Calif., 386 F.2d 962 (9 Cir. 1967), (A-1) is, in essence, an acceptance of the notion that the District Court lacked jurisdiction.

REASONS FOR GRANTING THE WRIT AND IMPORTANCE OF THE QUESTION PRESENTED

This Court has declared in Schware v. Board of Examiners of State of New Mexico, 353 U.S. 232, 77 S.Ct. 752, 756, 1 L.Ed.2d 796 (1957):

> "A State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment..."

The Court of Appeals claims that the case is governed by Chaney, supra. Said Court errs. In Chaney, the California Bar's adversary was disgruntled because he failed the Bar examination twice; however, at no time was said adversary denied due process or equal protection of the law. Proof is found in the text of Chaney, supra, p. 964:

> "Appellant [Chaney] does not purport to claim, within the conditions of Schware..."

Contrary to the opinion of the Court of Appeals, the denial of prior notice of Respondents' reasons; the denial of an opportunity for Petitioner to be heard and the denial of Petitioner's right to confront, to present, to examine and to cross-examine witnesses and evidence before Respondents made their decision, certainly brings this case "within the conditions

of Schware." Ergo, the District Court had jurisdiction, 42 U.S.C. § 1343.

Thus, the importance of the question presented is this: Are the United States District Courts required to follow Schware or may lower Federal Courts ignore the paramountcy claimed by this Court in matters of law?

Respectfully submitted

Edward Ronwin

February, 1980

APPENDIX

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED: Nov. 14,1980

EDWARD RONWIN, Plaintiff-Appellant, vs. RICHARD A. SEGAL; G. DAVID GAGE; PHILIP E. TOCI; ROBERT C. MOODY; RICHARD DAVIS and ANN BOWEN, Defendants-Appellees.	No. 77-2567 D.C.No. CIV 76-924 PHX MEMORANDUM

Appeal from the United States District Court for the District of Arizona
Manuel L. Real, District Judge, Presiding
Submitted November 13, 1980

Before: MERRILL and WALLACE, Circuit Judges, and BURNS,*District Judge

Judgment affirmed on the authority of Chaney v. State Bar of California, 386 F.2d 962 (9th Cir. 1967).

*Honorable James M. Burns, Chief, United States District Judge of the District of Oregon, sitting by designation.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

EDWARD RONWIN, Plaintiff, vs. RICHARD A. SEGAL, et al., Defendants.	NO. CIV. 76-924 PHX ORDER AND JUDGMENT

This cause came on to be heard before the Court on the following motions:

1. Motion of defendants to dismiss the Complaint.

2. Motion of plaintiff for summary judgment and, in the alternative, for preliminary injunction.

3. Motion of plaintiff for leave to file first amended complaint.

The Court, having considered the pleadings, the memoranda of points and authorities filed by the parties and the arguments of the plaintiff appearing in

propria persona and of counsel for defendants,

NOW, THEREFORE IT IS ORDERED AND ADJUDGED as follows:

1. The motion of the plaintiff for summary judgment or, in the alternative, for preliminary injunction, is hereby denied.

2. The motion of the plaintiff for leave to file a first amended complaint is hereby denied.

3. The motion of defendants to dismiss the complaint is hereby granted.

4. The Clerk is hereby directed forthwith to enter judgment in favor of defendants and against the plaintiff.

5. Defendants' costs shall be taxed pursuant to law.

DONE IN OPEN COURT this 6th day of June, 1977.

/s/ MANUEL L. REAL
United States District Judge

The applicable provisions of the Fifth and Fourteenth Amendments:

Fifth Amendment:

> "No person shall...be deprived of life, liberty, or property without due process of law..."

Fourteenth Amendment:

> "...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

No. 80-1362

EDWARD RONWIN,

Petitioner,

vs.

RICHARD A. SEGAL, et al.,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

FENNEMORE, CRAIG
von AMMON & UDALL
Philip E. von Ammon
1700 First National
Bank Plaza
100 West Washington
Phoenix, Arizona 85003
(602) 257-8700

Counsel for Respondents

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

No. 80-1362

EDWARD RONWIN,

Petitioner,

vs.

RICHARD A. SEGAL, et al.,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

FENNEMORE, CRAIG
von AMMON & UDALL
Philip E. von Ammon
1700 First National
Bank Plaza
100 West Washington
Phoenix, Arizona 85003
(602) 257-8700

Counsel for Respondents

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

No. 80-1362

EDWARD RONWIN

Petitioner,

vs.

RICHARD A. SEGAL, et al.,

Respondents.

PARTIES TO PROCEEDINGS

Respondents are Richard A. Segal, G. David Gage, Philip E. Toci, Robert C. Moody, Richard Davis, and Ann Bowen.

QUESTIONS PRESENTED FOR REVIEW

Did respondents deprive petitioner of any rights, privileges or immunities secured by the United States Constitution or laws?

Did the lower courts have authority to grant the relief sought by petitioner?

TABLE OF CONTENTS

Page

Table of Authorities i

Statement of Jurisdiction 1

Statutes and Rules Involved 1

Statement of the Case 2

Argument 7

Appendix

Rules of the Arizona Supreme Court

Rule 28(a) 1

Rule 28(c)IV 2

Rule 28(c)XII.C 3

Rule 28(c)XII.F 4

42 U.S.C. § 1983 5

Application of Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976), cert. denied, 430 U.S. 907 (1977) . . . 6

TABLE OF AUTHORITIES

CASES

	Page
Application of Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976), cert. denied, 430 U.S. 907 (1977)	5, 9
Chaney v. State Bar of California, 386 F.2d 962 (9th Cir. 1967)	12
In re Green, 141 U.S. 325 (1891)	13
Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950)	9
Ronwin v. Daughton, No. 76-872 PHX-MLR (D. Ariz. 1976), aff'd, No. 77-2318 (9th Cir. 1979)	6
Ronwin v. Segal, No. 76-924 PHX-MLR (D. Ariz. 1976), aff'd, No. 77-2567 (9th Cir. 1980)	6, 7
Schware v. Board of Bar Examiners of State of New Mexico, 353 U.S. 232 (1957)	10
Stanley v. Illinois, 405 U.S. 645 (1972)	9

STATUTES AND RULES

42 U.S.C. § 1983	8, 10
Rules of the United States Supreme Court	
Rule 17	1

Rule 21.j 1

Rules of the Arizona Supreme Court

Rule 28(a) 4, 11

Rule 28(c)IV 2

Rule 28(c)XII.D 3

Rule 28(c)XII.F 11

STATEMENT OF THE CASE

Petitioner's attempts to gain admission to the practice of law in the State of Arizona have resulted in several judicial proceedings, reference to which is necessary to understand the background of the current petition.

Rule 28(c)IV, Rules of the Arizona Supreme Court, defines the requirements which applicants for admission to the State Bar of Arizona must meet. The rule requires that a Committee on Character and Fitness ("Committee"), appointed by the Arizona Supreme Court, recommend an applicant for admission to the State Bar of Arizona only if the Committee is satisfied that the applicant is "mentally and physically able to engage in active and continuous practice of law." (A. 2.)

Petitioner sat for and failed Arizona'a February, 1974 bar examination. In July, 1974, the Committee informed petitioner it was unable to find petitioner mentally and physically able to

STATEMENT OF JURISDICTION

Respondents do not question the jurisdiction of this Court to issue a writ of certiorari to the Ninth Circuit Court of Appeals in an appropriate case under Section 1254(1) of Title 28 U.S.C.

However, petitioner has failed to comply with Rules 17 and 21.j, Rules of the United States Supreme Court, by failing to specify any special and important reason for this Court to grant review on a writ of certiorari. In fact, the only issue in this action is extremely narrow, applies to one limited situation, and was decided by the Ninth Circuit Court of Appeals on a basis fully consistent with prior decisions of this Court.

STATUTES AND RULES INVOLVED

Rule 28(a) and the applicable parts of Rule 28(c), Rules of the Arizona Supreme Court, are printed in the Appendix. Section 1 of the Civil Rights Act of 1871, 42 U.S.C. § 1983, is also printed in the Appendix.

engage in the active and continuous practice of law and therefore would not grant him permission to sit for the July, 1974 bar examination. On September 24, 1974, the Arizona Supreme Court ordered the formation of a Special Committee on Examinations and Admissions ("Special Committee") to conduct a formal hearing pursuant to Rule 28(c)XII.D, Rules of the Arizona Supreme Court, for the sole purpose of determining whether petitioner was mentally able to engage in the active and continuous practice of law.

Following completion of substantial discovery, the Special Committee held a formal hearing on January 6 and 7, 1975. Petitioner was represented by counsel. During that hearing, the Special Committee heard the testimony of seventeen witnesses, including petitioner, and received twenty exhibits in evidence. Included in the exhibits was deposition testimony of four additional witnesses. The witnesses included academic associates, some of petitioner's law school

professors and fellow students, practicing attorneys for whom petitioner had done legal research, two psychiatrists, and one clinical psychologist. The Special Committee admitted into evidence each exhibit offered by petitioner and received the testimony of each witness offered by petitioner. Petitioner was given the opportunity, through able counsel,[1] to confront and cross-examine all witnesses.

On January 21, 1975, the Special Committee issued its findings and concluded petitioner was not mentally able to engage in the active and continuous practice of law.

On January 28, 1975, petitioner filed a Petition for Review with the Arizona Supreme Court, the body responsible for finally determining questions of admission. (See Rule 28(a), A.I.) On July 6, 1976, in an unanimous decision the Arizona Supreme Court, after independently

---

[1]John P. Frank, Esq., a member of the bar of this Court and a former member of this Court's Advisory Committee on Civil Rules.

analyzing the record of the hearing, affirmed the Special Committee's conclusion and denied petitioner's application to be admitted the state bar. Application of Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976). (See A. 4.) In January, 1977, petitioner filed in this Court a Petition for a Writ of Certiorari to the Supreme Court of Arizona seeking review of the decision in Application of Ronwin, supra. This Court declined to accept jurisdiction of that petition on February 28, 1977. Ronwin v. The Committee on Examinations and Admissions of the Supreme Court of Arizona, 430 U.S. 907 (1977).

While review of the decision in Application of Ronwin, supra, was pending, petitioner commenced two actions in the United States District Court for the District of Arizona, both based upon alleged violations of the Civil Rights Act of 1866, 42 U.S.C. § 1981 et seq. The first, Ronwin v. Daughton, No. CIV. 76-872 PHX-MLR, was instituted on November 26, 1976 and named as defendants the members of the Special Committee;

the Dean and Associate Dean of Arizona State University College of Law, both of whom had testified on behalf of petitioner at the Special Committee's hearing; the attorney who represented the State Bar of Arizona during the hearing; a psychologist who testified; and petitioner's own lawyer, claiming that they had all conspired to "orchestrate" a sham proceeding. The Ninth Circuit Court of Appeals affirmed judgment in favor of defendants. Ronwin v. Daughton, No. 77-2318 (9th Cir. Aug. 9, 1979).

The second action, Ronwin v. Segal, No. CIV. 76-924 PHX-MLR, the subject of this action, was filed December 13, 1976. That action, which named as defendants the members of Arizona's Committee on Character and Fitness, originated when, in November, 1976, the Committee failed to recommend petitioner for admission to the Arizona bar following his application of August 30, 1976[2]

---

[2]Rule 28 of the Rules of the Supreme Court of the State of Arizona was amended on

and chose not to conduct a second evidentiary hearing. The Ninth Circuit Court of Appeals affirmed judgment in favor of respondents. Ronwin v. Segal, No. 77-2567 (9th Cir. Nov. 14, 1980).

ARGUMENT

A. Petitioner has defined no special or important reason which justifies review on a writ of certiorari.

Petitioner has not challenged the constitutionality of any state statute or court rule governing membership in the State Bar of Arizona. He has defined no conflict among the decisions of federal or state courts. He has pointed to no question of federal law raised in this matter which has not been settled by this Court.

(Footnote 2 continued)

November 3, 1975, effective November 8, 1975. The primary change was the creation of two committees, i.e., one Committee on Examinations and one Committee on Character and Fitness, whereas prior to the amendment the Committee on Examinations and Admissions had performed the functions of both new committees.

Instead, petitioner seeks review of a unique factual situation extremely limited in scope. In short, petitioner has advanced no reason to justify review on a writ of certiorari.

B. The Arizona State Bar Committee did not deprive petitioner of any right, privilege or immunity secured by the United States Constitution and laws.

Petitioner's action is based primarily upon the Civil Rights Act of 1866, 42 U.S.C. § 1983 ("Section 1983"). Petitioner alleged he was deprived of his right to due process under the law when respondents, acting as members of Arizona's Committee on Character and Fitness, refused to grant him a hearing on the reasons he was not recommended for admission to the State Bar of Arizona in 1976. Petitioner's attempt to state a claim under Section 1983 failed for two primary reasons.

First, as this Court has emphasized on several occasions, because the very nature of due

process requires flexible procedures, each set of circumstances must be examined to determine "what process is due" in a particular context. Stanley v. Illinois, 405 U.S. 645 (1972); Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950). The Committee's decision not to hold an evidentiary hearing was based upon Rule 28(c)XII.C, Rules of the Arizona Supreme Court, which requires the Committee to hold "such hearing or hearings as may be reasonably required to enable the Committee to pass upon the applicant's qualifications." (A. 3.) The Committee's conclusion that no hearing was reasonably required to enable it to decide whether to recommend petitioner for membership as of November, 1976 was based upon the decision of the Arizona Supreme Court in Application of Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976), cert. denied, 430 U.S. 907 (1977). That opinion provided a reasonable basis for respondents' decision, made only four months later, that no additional hearing was reasonably

required to enable the Committee to pass upon petitioner's qualifications.

Second, and most important, Section 1983 provides a right of action only when a claimant is subjected to "the deprivation of any rights, privileges, or immunities secured by the Constitution and laws [of the United States]." That limitation is consistent with this Court's definition of the federal judiciary's power to consider a state's refusal to admit an individual to the practice of law:

> A State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment. Schware v. Board of Bar Examiners of State of New Mexico, 353 U.S. 232, 238 (1957) (emphasis added).

The requirement that petitioner be deprived of his right to due process under the law or excluded from the practice of law in a manner which contravenes the due process clause is significant because respondents, as members of the

Committee, lacked power to exclude any applicant, including petitioner, from membership in the Arizona Bar. The function of the Committee is purely advisory, with ultimate responsibility for granting or denying admission residing solely in the Arizona Supreme Court. (See Rule 28(a), A. 1.) As a non-adjudicatory body lacking power either to grant or to deny petitioner admission to the bar, the Committee assuredly could not deprive petitioner of any "rights, privileges, or immunities."

The Committee's decision resulted only in a recommendation to the Arizona Supreme Court. That recommendation was not a terminative step in petitioner's quest for admission to the state bar. After being notified of the Committee's conclusion, petitioner had ample opportunity to obtain a hearing under the procedure defined by Rule 28(c)XII.F, Rules of the Arizona Supreme Court. (A. 4.) That rule allows an applicant aggrieved by a decision of the Committee to petition the

Arizona Supreme Court for review. The state court is then required to consider the petition and response and hold "such hearings and give such direction" as it in its discretion deems best adapted to a prompt and fair decision.

Petitioner did not apply to the Arizona Supreme Court for a review or hearing. He gave the Arizona Supreme Court no opportunity to act on his application. Any lack of hearing must be attributed not to respondents, who only made the recommendation required of those in their position, but to petitioner, who refused to avail himself of the procedures governing admission to the Arizona State Bar.

A similar situation was considered in Chaney v. State Bar of California, 386 F.2d 962 (9th Cir. 1967), in which the court held that no deprivation of a right or privilege secured by the Constitution and laws of the United States can occur until the state court with power to control questions of admission expressly or impliedly

approves the actions of a state bar committee. In like manner, because respondents lacked power to deprive petitioner of any federally-protected right, the action against them was properly dismissed.

C. The lower court lacked power to issue a writ in the nature of mandamus directed to Arizona's state court and its officers.

Although not relied upon by the Ninth Circuit Court of Appeals, an alternative basis justified its decision. Petitioner requested the district court to order respondents to state their reasons for not recommending petitioner's admission and to command them to convene a hearing.

Since the decision in In re Green, 141 U.S. 325 (1891), it has been settled that federal courts cannot direct state courts in the performance of their duties, including their duty to determine state bar membership. Therefore, even if petitioner had stated a claim for relief, judgment in favor of respondents would have been required.

CONCLUSION

The decision of the Ninth Circuit Court of Appeals was consistent with the decisions of this Court. The Petition for Writ of Certiorari should be denied.

Respectfully submitted,

Philip E. von Ammon

February, 1981

Rules 28(a), 28(c)IV, 28(c)XII.C and 28(c)XII.F, Rules of the Arizona Supreme Court

Rule 28. Examination and Admission

28(a) Committees on examinations and admissions; powers and duties. The examination and admission of applicants for membership in the State Bar of Arizona shall conform to this rule. For such purposes two committees shall be constituted. One Committee shall be the Committee on Examinations. The other Committee shall consist of seven active members of the State Bar appointed by the Court upon the recommendation of the Board of Governors of the State Bar which shall recommend at least three members of the State Bar for each appointment to be made. Members of the two Committees shall serve for seven year terms. In the case of the Committee on Character and Fitness now being separately established the seven initial appointments shall be for terms of seven, six, five, four, three, two and one year respectively. Thereafter, upon the expiration of a member's term, the Court shall appoint a new member to serve for a term of seven years. As to each Committee, in the event of a resignation or inability of a committee member to serve, the Court shall appoint another person to serve the unexpired term. The Committee on Examinations shall examine applicants and advise this Court and the Committee on Character and Fitness of those who have passed the examination for admission to the State Bar of Arizona. The Committee on Character and Fitness shall recommend to this Court for admission to the State Bar of Arizona those individuals who, having passed the examination for admission to the State Bar of Arizona, are deemed by the Committee to be qualified on the basis of character and fitness. The Court will then consider the recommendations and either grant or deny admission.

. . . .

28(c) Rules governing admission of applicants to the State Bar of Arizona, as amended.

. . . .

IV. APPLICANT REQUIREMENTS AND QUALIFICATIONS

On the basis of a properly completed application timely filed the applicant will be entitled to sit for the bar examination.

No applicant for admission to the State Bar of Arizona shall be recommended for admission by the Committee on Character and Fitness unless the Committee is satisfied:

1. That the applicant is or at the time of the examination will be over the age of twenty-one (21) years;

2. That he is of good moral character;

3. That he is mentally and physically able to engage in active and continuous practice of law;

4. That he is a graduate of a law school provisionally or fully approved by the American Bar Association at the time of his graduation; provided that this requirement shall not apply to an applicant who has been actively engaged in the practice of law in some other state or states for at least five (5) years of the last seven (7) years prior to his application for admission to practice in Arizona.

. . . .

5. That, if admitted to practice in any other state or states, he is in good standing in every such state.

The Committee on Character and Fitness may provide for early filing of an intention to seek admission to the State Bar of Arizona on the part of Arizona law students, after completion of their first year at the University of Arizona College of Law or Arizona State University College of Law, to enable expeditious inquiry into the character and fitness of the applicant and to facilitate the giving of advice and counsel on issues relating to character and fitness.

The Committee on Character and Fitness should endeavor to complete its inquiries on character and fitness so as to be in a position to recommend for or agaist a successful examinee's admission to the State Bar of Arizona no later than the time the results from the bar examination are available. In extraordinary cases more extended time for inquiry and formulation of a recommendation may be required.

XII. RULES GOVERNING PROCEDURE BEFORE THE COMMITTEES

. . . .

C. Formal Hearings on Character and Fitness. If the Committee on Character and Fitness is unable to make the findings required to support a recommendation for the applicant's admission with respect to character and fitness, the Committee shall hold such hearing or hearings as may be reasonably required to enable the Committee to pass upon the applicant's qualifications. Notice of such hearing or hearings shall be given to the applicant in writing specifying

the time and place for the hearing and advising the applicant as to the subject and purpose of the hearing.

After the hearing or hearings the Committee on Character and Fitness shall report to the Court its findings that the applicant meets the character and fitness requirements and should be admitted or that the Committee is unable to make such findings and recommendation, as the case may be. The applicant shall at the same time be informed of the Committee's recommendation.

. . . .

F. Review by the Supreme Court.

1. An applicant aggrieved by any decision of the Committee on Examinations or the Committee on Character and Fitness may within 20 days after such occurrence file a verified petition with this Court for a review. The petition shall succinctly and briefly state the facts which form the basis for the complaint, and applicant's reasons for believing this Court should review the decision of the Committee on Examinations or the Committee on Character and Fitness.

2. A copy of said petition shall be promptly served upon the chairman or some member of the Committee from which the complaint arose and that Committee shall within 15 days of such service transmit said applicant's file and a response to the petition fully advising this Court as to that Committee's reasons for its decision and admitting or contesting any assertions made by applicant in said petition. Thereupon this Court shall consider the papers so filed together with the petition and response and make such order, hold such hearings and give such directions as it may in its discretion deem best adapted to a prompt and fair decision as to the rights and

obligations of applicant judged in the light of that Committee's and this Court's obligation to the public to see that only qualified applicants are admitted to practice as attorneys at law.

42 U.S.C. § 1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In Banc

IN THE MATTER OF APPLICATION OF EDWARD RONWIN TO BE ADMITTED AS A MEMBER OF THE STATE BAR OF ARIZONA	)	FILED July 6, 1976 Clifford H. Ward Clerk Supreme Court No. SB-52-2

APPLICATION FOR ADMISSION TO STATE BAR OF ARIZONA DENIED: PERMISSION TO TAKE BAR EXAMINATION DENIED

GORDON, Justice:

The applicant, Edward Ronwin, filed this petition for review after a Special Committee on Examinations and Admissions appointed by this Court refused to recommend him for admission to the State Bar of Arizona on the ground that he "is not mentally able to engage in the active and continuous practice of the law."

Ronwin graduated from the Arizona State University College of Law in January of 1974. He took and failed the bar examination administered the following month. A petition for review of the grading of the examination papers filed with the Committee on Examinations and Admissions was denied. A similar petition subsequently filed in this Court was also denied.

On July 22, 1974, eight days before he was to retake the exam, the Committee on Examinations and Admissions informed Ronwin that he had not qualified for permission to take the test "in that the Committee is unable to make the requisite

finding that you are mentally and physically able to engage in [the] active and continuous practice of law." A petition for a Writ of Special Action was filed by the applicant with this Court the next day. We conducted a hearing and declined to take jurisdiction of the matter on July 30th.

On September 24, 1974, an order was entered by this Court appointing a Special Committee to conduct a formal hearing under Rule 28(c) XII D of the Rules of the Supreme Court for the sole purpose of determining whether Ronwin was mentally able to engage in the active and continuous practice of law. Following substantial discovery the hearing was held on January 6 and 7, 1975. On January 21st the seven member Committee issued the following findings:

> "[T]he applicant suffers from an established personality disorder of a character and pattern which will persist in the event the applicant is admitted to the practice of law which
>
> "(a) Causes him to be unreasonably suspicious that bad motives and intentions activate persons with whom he comes into contact and to unreasonably imagine that he is the object of unfair persecution by such persons and to act upon such imagined wrongs as if in fact sustained by known facts;
>
> "(b) Causes him to make irresponsible and highly derogatory untrue public accusations and charges against persons in responsible positions which he knows or reasonably should know are without any factual basis or support;
>
> "(c) Causes him to bring and pursue with great persistence groundless claims

> in court proceedings and otherwise even though he knows or should reasonably know such claims to be groundless, and that thereby others will be subjected to needless expense and concerns."

The Committee concluded that "because of this personality disorder applicant would probably be unable to properly represent and serve the interests of his clients * * * [and] will probably * * * bring and prosecute groundless claims and subject clients, parties, the Court and adversary counsel to groundless charges of misconduct and impropriety if his view of the merits of the claims he presented should be vigorously opposed and be found to be without merit by the Court."

Ronwin filed a Petition for Review of the Committee's findings in this Court on January 28, 1975, placing the case in its present posture. The applicant's subsequent motion seeking an order admitting him to the Bar or, in the alternative, permitting him to take the examination pending a determination of his petition for review was denied.

The practice of law is not a privilege but a right, conditioned solely upon the requirement that a person have the necessary mental, physical and moral qualifications. Application of Klahr, 102 Ariz. 429, 433 P.2d 977 (1967); Application of Burke, 87 Ariz. 336, 351 P.2d 169 (1960). This right "is neither greater nor less than the right to engage in other occupations, businesses or trades, for the right to seek and retain employment is shared by all equally and to be equal must be upon the same conditions." Application of Levine, 97 Ariz. 88, 397 P.2d 205 (1964). In Arizona, as a prerequisite to the admission to practice an applicant has the burden of establishing as required by Rule 28(c) IV (3)

of the Rules of the Supreme Court that he is "mentally * * * able to engage in active and continuous practice of law." See Application of Courtney, 83 Ariz. 231, 319 P.2d 991 (1957). If the Committee believed in this case that there was doubt as to Ronwin's mental qualifications "its plain duty was to refuse to certify his name to this Court for admission, for the ultimate responsibility for the admittance to the practice of law lies in the members of the Court." Application of Levine, supra. See Application of Walker, 112 Ariz. 134, 539 P.2d 891 (1975). The Committee's task is often a difficult one as some of the concepts embodied in the Rules escape definition in the abstract. Because of this a petition for review concerning such a matter "must be judged on its own merits, and an ad hoc determination in each instance must be made by the court." Application of Klahr, supra.

After a careful review of the record we have concluded that Ronwin has failed to demonstrate that he is mentally able to engage in the active and continuous practice of law. To survey in this opinion the allegations or criticisms made by various witnesses or the psychiatric and psychological testimony would unnecessarily inject comment on the character or reputation of persons other than the individual who is the focus of this case and would serve to heighten the extreme emotion with which the applicant and others view several of the incidents which were highlighted at the committee hearings. It would also discourage in the future the sort of candid and personal testimony which many people are naturally reluctant to give but which is necessary in order to make a competent evaluation of an applicant's qualifications.

In summary, there is significant expert testimony in the record to indicate that Ronwin

has a "paranoid personality" which is characterized by hypersensitivity, rigidity, unwarranted suspicion, excessive self-importance and a tendency to blame others and ascribe evil motives to them. The ominous ramifications of his personality disorder can be seen in the testimony of two professors which indicates that on different occasions he became enraged during discussions of academic matters and made serious threats of physical violence toward certain individuals and, in two cases, their wives. The record reveals a continuing inability by the applicant to maintain normal interpersonal relationships with sharp conflict rather than cooperation a common result. This situation is particularly aggravated where Ronwin is the subject of criticism or views himself as the victim of an imagined or real injustice. While he may excel in other endeavors, he appears mentally unable to reasonably deal with the type of social interaction involved in dealing with clients, other members of the Bar and the public.

We believe that it is imperative that the term "mentally * * * able to engage in active and continuous practice of law" be construed to exclude persons whose long-standing personality traits indicate an obvious inability to get along with authority figures under situations of minor stress and conflict, whether or not these personality deficiencies rise to the level of medically recognized and categorized mental disorders.

The applicant's "irresponsible and highly derogatory untrue public accusations and charges against persons in responsible positions" referred to in ground "(b)" were mainly directed at administration officials at Arizona State University and appear to have resulted from an honest although probably misguided opinion of who was responsible

for harassment he endured while a law student.[1] We must be cautious not to punish an individual for utterances which fall within the protections of the First and Fourteenth Amendments.

---

[1] Graffiti such as "Rabbi Ronwin", "Ronwin is a Jew", "Jewish Dining Room" (on the bathroom stall) and other ethnic slurs were written on walls and notices at the law school. There is no indication in the record whether Ronwin is Jewish. The applicant's hypersensitivity and aggressiveness aggravated the normal repugnance an individual would feel as the brunt of such remarks. In a letter to the President of the University, Ronwin accused the dean of the law school of expressing an "attitude of malice" toward him as demonstrated by his failure to stop the graffiti and stated "[t]he activities of [the] Dean * * * sum to an astonishing and deliberate nonfeasance and malfeasance and were directly responsible for both my troubles at the school, which continued virtually unabated during my entire association, and for much of my current problems with the Bar." Other critical comments in the letter were directed toward a resident professor, two visiting professors and an acting dean of the law school during one semester that the permanent dean was on a sabbatical. Ronwin accused the acting dean of deliberately soliciting false memoranda containing derogatory comments concerning the applicant and of bringing "the memoranda to the Committee's attention with the object of destroying me or my chances to become a member of the Bar because of the boundless malice with which he operates * * *." In connection with a theft from his locker, the applicant stated the acting dean "used his office to protect a felon and effectively halt a criminal investigation because of that hatred [for me]." Ronwin demanded that both the acting dean and a professor be dismissed from the faculty.

See Pickering v. Board of Education, 391 U.S. 563, 88 S.Ct. 1731, 20 L.Ed.2d 811 (1968); New York Times Company v. Sullivan, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964); Application of Levine, supra. However, the relationship of these accusations and charges to his feelings of persecution as set forth in paragraph (a) of the Committee's Findings is apparent to anyone who reads the full transcript of the proceedings in this matter.

We do not agree with ground "(c)" of the Committee's Findings, that Ronwin has in the past brought "with great persistence groundless claims in court proceedings and otherwise." We hesitate to fault the applicant for resorting to the legal system to express his grievances where, as in this case, there is credible evidence that the actions were brought with a good faith belief in their merit.[2]

---

[2] At the hearing the applicant defended the filing of two lawsuits. The first was filed in 1969 with the California Fair Employment Practice Commission while the applicant was a lecturer at Fresno State College. Ronwin alleged he was a victim of reverse discrimination in hiring practices at the institution. The matter was eventually terminated when a default judgment was entered against the applicant. The second lawsuit was filed in 1972 against seven fellow students Ronwin felt were responsible for the graffiti and verbal harassment he was receiving at the law school. At the hearing the applicant gave a reason why each defendant was included in the suit.

Having agreed with the Special Committee after our independent analysis of the record that Ronwin is not mentally able under Rule 28(c) IV of the Rules of the Supreme Court to engage in the active and continuous practice of law, it is ordered that his application to be admitted as a member of the State Bar or, in the alternative, to take the bar examination, is denied.

STRUCKMEYER, V. C. J., HAYS, and HOLOHAN, JJ., and HENRY S. STEVENS, Judge, Retired, concurring.

Note: The Honorable JAMES DUKE CAMERON, Chief Justice, did not participate in the determination of this matter and the Honorable HENRY S. STEVENS, now a retired Judge of the Court of Appeals, was called to sit in this matter.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

No. 80-1362

EDWARD RONWIN, Petitioner

v.

RICHARD A. SEGAL, et al,
Respondents

REPLY TO RESPONDENTS' BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

EDWARD RONWIN
Box 3585
Urbandale, Iowa 50322
(515) 278-8553

Petitioner pro se

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

No. 80-1362

EDWARD RONWIN, Petitioner

v.

RICHARD A. SEGAL, et al,
Respondents

REPLY TO RESPONDENTS' BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

EDWARD RONWIN
Box 3585
Urbandale, Iowa 50322
(515) 278-8553

Petitioner pro se

TABLE OF CONTENTS

	Page
Comment on Respondents' Statement of the Case	1
Argument	4
Further Refinement of the Facts	4
The Decisional Conflict and the Constitutional Question Comprehended Herein	5
The Fundamental Importance of This Case	7

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

No. 80-1362

EDWARD RONWIN, Petitioner

v.

RICHARD A. SEGAL, et al,

Respondents

REPLY TO RESPONDENTS' BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

COMMENT ON RESPONDENTS' STATEMENT OF THE CASE

(Hereinafter, Respondents' Brief = RB)

Veracity would have been better served in Respondents' effort to present facts underlying this case, if Respondents had admitted that of the 17 witnesses who testified at the Special Committee hearings on Jan. 6/7, 1975 (RB, pp.3-4), 13, including the two psychiatrists and ex-Dean

Willard H. Pedrick and another professor were of the opinion that petitioner suffers from no mental disability or illness and has shown excellent understanding of and ability in law. The third professor did not venture an opinion on petitioner's mental state and two "fellow students" called petitioner "paranoid", but these two had been sued by petitioner in state court to halt their anti-semitic activity at the Law School (see footnote no. 1, In re Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976), reproduced in RB, Appendix, p.11). The "clinical psychologist" alleged to have changed his mind from no decision on petitioner's mental ability to practice law to an allegation that petitioner was not able, but admitted being given secret prompting by the Bar counsel and then lied under oath about the reason for his change of opinion. Veracity would have

gained in Respondents' recitation if it acknowledged that the same "clinical psychologist" was under treatment for a mental disorder at or near the time he allegedly examined petitioner and testified on that alleged examination. Even more, a third psychiatrist's report was accepted by the Arizona Supreme Court prior to its promulgation of In re Ronwin and that report labelled petitioner as not suffering from any mental illness and as having excellent qualifications for law work.

Respondents ought to have revealed that at the suggestion of the Bar Committee Chairman, petitioner's application of Aug. 30, 1976, which led to this action, (RB, p.6) and which is totally separate from the application leading to In re Ronwin, was accompanied by a fourth psychiatrist's report which joined the three previous psychiatrists in holding that

petitioner did not suffer from any mental disease or disability.

ARGUMENT

Further Refinement of the Facts

In addition to the admitted refusal to allow petitioner a hearing before denying petitioner's application of Aug. 30, 1976, (RB, pp.6-7;8), Respondents failed to inform petitioner of the "reasons" for denial of said application. Further, Respondents' observations that In re Ronwin was promulgated "..only four months..." prior to the denial of the application of Aug. 30, 1976, (RB, p.9) is misleading. Said decision was the final State action on an application made in June, 1974 and based on evidence dated no later than Dec., 1974 and given in said hearing on Jan. 6/7,1975. Thus, approximately two years separate the evidence presented to support the application underlying this cause and that which led to In re Ronwin.

The Decisional Conflict and the Constitutional Question Comprehended Herein

Contrary to Respondents' assertion, (RB, p. 7), the conflict in decisions is between the 9th Circuit allegation that this case is governed by Chaney v. State Bar of Calif., 386 F.2d 962 (9 Cir. 1967) and this Court's decision in Schware v. Board of Bar Examiners of State of New Mexico, 353 U.S.232 (1957); and, the question comprehended thereby is the constitutionality of Rule 28(c)XII.C, of the Arizona Supreme Court, (RB, Appendix, pp.3-4), which allows the Bar Committee to deny applications without hearing; without presentation of reasons for the denial and without the right given applicants to confront and cross-examine adverse witnesses and evidence (RB, p.9), in conflict with the Fifth and Fourteenth Amendments and this Court's decision in Schware.

While not part of this cause, it may be noted that the Arizona authorities have now denied six (6) applications by petitioner over the last five to six (5-6) years without giving petitioner: (1) reasons for denial, (2) a hearing and (3) an opportunity to confront and cross-examine adverse witnesses and documents.

The right deprived by the Arizona interpretation of its Rule 28(c)XII.C, is that of practicing a profession and the right to an opportunity to qualify therefor, which this Court clearly placed under the protection of the Fifth and Fourteenth Amendments in Greene v. McElroy, 360 U.S. 474, 79 S.Ct. 1400, 1411, 1415 (1959), which decision included "the law" by its reference to Schware,(Greene, p. 1411).

The Arizona Bar Committee's determination is not just a "recommendation,"(RB, p. 11), but a decision,and that decision

is a final decision subject only to "review" by the Ariz. Supreme Court, as shown by the language of Rule 28(c)XII.F.1,(RB, Appendix, p. 4).

Contrary to Respondents' notion, (RB, p.12), petitioner need not have resorted to the Arizona Supreme Court before seeking federal intervention based on violation of the Civil Rights Acts, Monroe v. Pape, 365 U.S. 183, 81 S.Ct. 473, 482 (1961); and, from the information given above, such resort is a futile act.

At odds with Respondents' position, (RB, p. 13) is the established use of mandamus and prohibition to enforce civil rights, Law Students Civil Rights Research Council v. Wadmond, 401 U.S. 154, 91 S.Ct. 720 (1971); NAACP v. Allen, 340 F. Supp. 703, 706 (M.D.Ala. 1972).

THE FUNDAMENTAL IMPORTANCE OF THIS CASE

In addition to the conflict in the ap-

plication of said Rule 28(c)XII.C, and Schware,(and, thereby, the Fifth and Fourteenth Amendments), the question also arises whether the District Court can refuse to take jurisdiction mandated by Congress in 28 U.S.C. § 1343 because the underlying action arises in a Bar-related matter; and, whether the District Court can simply ignore Schware which, in practical effect, both reduces this Court's decision to an act of futility and elevates State rules of procedure above the Supremacy Clause.

The Supremacy Clause is not an idle edict. It is meant to be obeyed. Nothing in the U.S. Constitution allows a federal court--District level or higher--to shun its duty to enforce the constitution against all offenders including all state officers and courts. Comity cannot be allowed to amend or abrogate the Constitution.

Respectfully submitted

Edward Ronwin

February, 1981